IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 4811 of 2004

Between:

H.Virupakshappa S/o.Chandrasekharappa
Sridhargatta Primary Agricultural Coop.Society Ltd. Sridhargatta Village, Anantapur District.

..... PETITIONER

AND

1 The Commissioner for Cooperation, Government of Andhra Pradesh, Hyderabad.
2 The District Cooperative Officer, Anantapur District Anantapur.
3 The Deputy Registrar of Cooperative Societies, Dharmavaram, Anantapur District.
4 The Person In-charge/Chairman, Sridhargatta Primary Agricultural Co-op Society Ltd., Sridhargatta Village, Anantapur District.
5 President, Sridhargatta Primary Agricultural Coop.Society Limited, Sridhargatta Village, Anantapur District.
6 Branch Manager, The Anantapur District Co-operative Central Society Ltd., Rayadurg, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of Mandamus declaring the action of the Deputy Registrar of Cooperative Societies, Dharmavaram in issuing the surcharge orders in Rc.No.420/2003-A dated 11.9.2003 are against the principles of natural justice, unjust, void, and consequently set aside the same.

Counsel for the Petitioner:MR.G.V.L.N.MURTHY

Counsel for the Respondent Nos. 1 to 3: GP FOR COOPERATION

Counsel for respondent Nos.4 to 6: Mr.O.Manohar Reddy & Sri M.S.K.Ranga

Rao.

The Court made the following :

O R D E R:

The facts of the case in brief are that the petitioner was initially appointed as paid Secretary in Panepally PACS on 10.04.1976. Later, he was posted to PACS, Sridhargatta Primary Agricultural Co-opaerative Society Limited, Sridhargatta Village, Anantapur District. On 09.06.2003 the respondent-PACS issued a notice to the petitioner asking him to pay back a sum of Rs.2,30,000/- towards arrears of salaries taken by him during the year 2002-2003. There after, the petitioner paid an amount of Rs.20,000/- and submitted a representation dated 25.06.2003 before the authorities for granting monthly instalments to pay the above said amount. In spite of the same, the 3rd respondent-Deputy Registrar of Co-operative Societies, Dharmavaram issued surcharge orders under Section 60 of the Andhra Pradesh Co-operative Societies Act 7 of 1964 (herein after called as 'Act') in R.C.No.420/2003-A, dated 11.09.203, directing the petitioner to pay the balance amount of Rs.2,19,261-44 ps. to the Society with interest at the rate of 18% p.a., from the date of occurrence. Pursuant to the Enquiry Report submitted by the Sub-Divisional Co-operative Office, the Chairman of the Society, by order dated 29.07.2003 kept the petitioner under suspension for causing misappropriation of the funds of the Society, without paying any subsistence allowance till now. Hence, this writ petition is filed.

The 3rd respondent filed counter stating that as the petitioner has got an alternative remedy of appeal under Section 76 of the Act, 1964, the writ petition is not maintainable.

On going through the material it is seen that before passing the suspension order, the petitioner was issued with a notice, dated 27.08.2003 stating that a domestic enquiry is going to be held by the Divisional Co-operative Officer, Dharmavaram. On 10.09.2003, the petitioner attended the enquiry and accepted his liability to make good the misappropriated amounts. As the petitioner has accepted the mis-appropriation of funds, the 3rd respondent issued sur-charge proceedings against him. The petitioner without availing an alternative remedy of appeal, approached this Court. Hence, when an alternate appellate remedy is available to the petitioner, this Court cannot entertain the writ petition.

In view of the above, the writ petition is dismissed. However, it is open for the petitioner to avail an alternative remedy of appeal available to him before the appellate authority. No costs.

17.09.2004

tjs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner for Cooperation, Government of Andhra Pradesh, Hyderabad.
2 The District Cooperative Officer, Anantapur District Anantapur.
3 The Deputy Registrar of Cooperative Societies, Dharmavaram, Anantapur District.
4. 2CCs to the G.P.For Co-operation, High Court of A.P., Hyderabad.(OUT)

5. 2CD copies.